

#### **REMARKS**

Claims 1-30 were pending in the application and all were rejected. Claims 1, 15, 17, 27, 29 have been amended. Claims 14, 16, 21, 25, and 26 have been canceled. Support for the claim amendments can be found in Applicant's disclosure as published in United States Patent Publication Number 2006/0271530 A1, specifically at paragraphs [0060] through [0062]. Applicant respectfully requests reconsideration.

#### **CLAIM REJECTIONS UNDER 35 USC §102**

**The Office Action has rejected claims 1-8, and 23-30 under 35 USC 102(a)** as being anticipated by Rinaldi et al. ("Routing and Data Location in Overlay Peer-to-Peer Networks," July 2002).

Independent claims 1 and 29 have been amended to incorporate claim limitations not found in Rinaldi, as conceded by the Examiner with respect to the claim rejections under 35 USC 103 (below). Therefore, independent claims 1 and 29 and their dependent claims 2-8, and 30 are not anticipated by Rinaldi.

#### **CLAIM REJECTIONS UNDER 35 USC 103**

**The Office Action rejected claims 9-22 under 35 USC 103(a)** as being unpatentable over Rinaldi et al. in view of Guy et al. (Replica Management in Data Grids, July 2002). Applicant respectfully traverses this rejection.

Claims 9-22 are patentable over the cited references because they depend on claim 1

which now contains the following limitation pulled from original claim 14:

“wherein, upon receiving a “replica not available” response from each of the addressed entities:

setting a lowest replica number out of the addressed replica numbers as an upper limit for a new set of replica numbers associated with the entities; and

selecting another entity from the identified entities associated with the new set of replica numbers for addressing the document related request.”

With respect to claim 14, the Office Action concedes that “Rinaldi does not explicitly disclose wherein upon receiving a “replica not available” response from each of the addressed entities, another entity is selected from the identified entities for addressing the document related request.” The Examiner alleges that Guy provides this deficiency at pg. 13, paragraph 4, bullets 1-3:

“Figure 3 shows a sequence diagram for this use case. Errors may occur in the case where the destination SE does not have enough space for the dataset to be replicated. In such a case, the SE, in conjunction with the RMS, must decide how to proceed. Possible options include:

- The RMS returns an error stating that the job cannot be completed due to lack of resources on the specified destination SE,
- Files tagged as “volatile” on the SE are identified and deleted to release sufficient space for the replication request to proceed,
- An alternative SE is identified that satisfies the job requirements.”

Guy is silent on setting a lowest replica number as an upper limit for a new set of entities to address, as now required by claim 1, from which claims 9-22 depend.

Further, Applicant wishes to point out that the Rinaldi reference is an IBM publication and is in fact co-authored by Marcel Waldvogel, a co-inventor of the instant application and is dated July 8, 2002, just ten months prior to the foreign priority date of June 30, 2003 of the instant application. Also, Guy's publication was published July 1, 2002, just eleven months before the foreign priority date of June 30, 2003.

### **CONCLUSION**

For the foregoing reasons, Applicant respectfully requests allowance of the pending claims. The Director is hereby authorized to charge any fees which may be required, including any petition for extension of time fees under §1.17, or credit any overpayment, to Deposit Account Number 50-0510.

Respectfully submitted,

/Michael J. Buchenhorner/

Michael J. Buchenhorner  
Reg. No. 33,162

Date: September 22, 2009

Michael Buchenhorner, P.A.  
8540 S.W. 83 Street  
Miami, Florida 33143  
(305) 273-8007 (voice)  
(305) 595-9579 (fax)